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July 19, 2002

Ms. Loretta Barsamian
Executive Officer
Regional Water Quality Control Board
San Francisco Bay Region
1515 Clay Street, Suite 1400
Oakland, CA 94612

Comments on Tentative Order for NPDES Permit No. CA0037753 for Sanitary District No. 5, Marin County

Dear Ms. Barsamian:

Thank you for the opportunity to provide comments on the proposed Tentative Order. The District appreciates the efforts of Mr. Ken Katen of your staff to work with the District in the development of the proposed NPDES permit.

As you know, the District takes its role as a wastewater treatment agency very seriously. The District has maintained a strong history of compliance with the requirements prescribed in its existing NPDES permit and fully intends to continue that record. The District has been a long time contributor to the San Francisco Bay Regional Monitoring Program and has recently joined the Bay Area Clean Water Agencies as an affiliate member. The District will continue to participate in and support collaborative efforts that lead to effective management of water quality in San Francisco Bay. As a public agency responsible to local rate payers, the District will also continue to provide feedback to the Regional Board if it appears that proposed permit requirements are not warranted on the basis of equity, effectiveness or reasonableness.

Description of District's Discharge

As noted in the proposed permit findings, the District discharges secondary effluent to Central San Francisco Bay. The District discharges through a high rate diffuser at a depth of 84 feet into Raccoon Straits, an area of strong currents and mixing due to its proximity to the Golden Gate. The treated effluent is rapidly mixed with Bay waters, achieving an estimated initial dilution of 1400 to 1.

The District's average dry weather flow (ADWF) (average flow in lowest three consecutive dry season months) in 1999, 2000, and 2001 ranged from 0.61 to 0.65 million gallons per day (mgd). The rated capacity of the District's treatment facility is 0.98 mgd. In comparison to other municipal discharges to San Francisco Bay (total discharge exceeds 600 mgd), the District's actual flow represents approximately 0.1

percent of the treated municipal discharge to the Bay. With regard to total loadings to the Bay, the District's discharge is a much smaller fraction, given that the total treated municipal loading of most pollutants to the Bay are generally recognized to be a small percentage of the total (USEPA, California Toxics Rule Supporting Information, 2000).

The proposed permit states that the District's discharge has been classified by USEPA and the Regional Board as a major discharge. We request that this classification be reviewed and modified, if possible. If re-classification is not possible, we request that language be added to Finding 5 of the permit to clarify that the location, nature and magnitude of the District's discharge are such that its effect on Bay water quality are minor.

We have the following additional comments regarding the proposed Order and supporting documents. We note that the proposed permit will impact the District in several key areas, including (a) new or revised effluent limits, (b) new special studies, and (c) changes in self-monitoring requirements, as described below.

Effluent Limits

The proposed permit includes new or revised effluent limits for the following pollutants:

- Copper
- Lead
- Mercury
- Nickel
- Selenium
- Silver
- Zinc
- Cyanide

Three of the effluent limits in the existing permit (for copper, selenium and silver) are being adopted as interim limits in the proposed permit. In addition, a new interim limit for mercury is being established. These interim limits are required because the Feasibility Analysis prepared on behalf of the District indicated that identified final effluent limits for these pollutants cannot be immediately attained. The District is supportive of the proposed adoption of these interim limits.

The proposed permit eliminates effluent limits for the following pollutants which were included in the previous permit: arsenic, cadmium, chromium, phenols, and PAHs. The District supports the Regional Board's findings that effluent limits are not required for these pollutants.

Specific concerns regarding effluent limits

The District wishes to express its concern with several provisions of the proposed permit which relate to effluent limits, including (1) effluent limits for bio-accumulative pollutants, (2) continued use of a 10:1 dilution credit in effluent limit derivations, and (3) use of narrative water quality objectives and/or Best Professional Judgment to set numeric effluent limits.

Effluent limits for bio-accumulative pollutants

As a matter of policy and procedure, the District does not agree with the imposition of water quality-based effluent limits for bio-accumulative pollutants prior to the adoption of a TMDL for these pollutants. In brief, the District understands that the basis for concern for bio-accumulative pollutants relates to the levels of these pollutants in fish and shellfish. The District endorses use of tissue criteria, adopted in accordance with California laws and regulations, for the regulation of bio-accumulative pollutants. The use of water column concentrations (e.g. total mercury) to regulate levels in fish and shellfish is unproductive and is not supported by scientific evidence. The District believes that the only defensible approach to permitting bio-accumulative pollutants is through waste load allocations established in the TMDL process, which account for all sources and addresses the linkage between sources and fish tissue levels.

The District also does not agree with the decision to eliminate dilution credits for bio-accumulative pollutants. Since the concentration of these pollutants at the District's point of discharge has no demonstrable effect on bioaccumulation in fish tissue in San Francisco Bay, the establishment of concentration-based effluent limits for these pollutants is inappropriate. The elimination of dilution credit in the calculation of such limits further complicates this issue, has no benefit to the Bay, and may cause unwarranted compliance problems for the District in the future.

Finally, the District objects to the proposed imposition of interim mass limits for bio-accumulative pollutants (e.g. mercury). The District believes that such limits are unnecessary and fail to consider the de minimis nature of the District's loading to the Bay. The District again advocates that mass limits in NPDES permits for bio-accumulative pollutants be derived through a science-driven TMDL process.

Dilution Credit

The District strongly disagrees with the continued application of a 10:1 dilution credit in the calculation of NPDES water quality-based effluent limits. As stated in the fact sheet and permit findings, the District's discharge receives an actual dilution (1400:1) which exceeds the artificial dilution cap by more than 2 orders of magnitude. The District requests that the Regional Board take the specific facts regarding dilution magnitude and the location and magnitude of the District's discharge into account in the assignment of a dilution credit for effluent limit calculations. The District takes exception to the arguments stated in the Fact Sheet in support of the retention of a 10:1 dilution cap on the

discharge. The ambient stations cited as "clean" sampling sites reflect the actual ambient background water quality conditions for the District's discharge. Mathematical modeling tools are available that can reliably predict the impact of the District's discharge in the Bay.

Use of Narrative Objectives / Best Professional Judgment

The District disagrees with the proposed use of Basin Plan narrative toxicity or narrative bioaccumulation objectives or Best Professional Judgment as the basis for the establishment of numeric effluent limits for specific pollutants in the District's permit. The District asserts that such practice is improper in California in the absence of either (a) adopted numeric objectives or (b) clear statements of the means by which narrative objectives would be used to set numeric effluent limits in NPDES permits, as required by USEPA regulations (40 CFR 131.11(a)(2)).

Special Studies

The proposed permit requires the District to perform the following special study activities that were not required in the previous permit.

- Participate in regional discharger-funded effort to establish a site-specific objective (SSO) for cyanide and to monitor cyanide ambient background levels in Bay waters in accordance with a study plan submitted by BACWA on October 29, 2001.
- Monitor and evaluate effluent for specified toxic pollutants in accordance with the Regional Board's August 6, 2001 Water Code Section 13267 letter.
- Participate in ambient background monitoring effort consistent with a September 28, 2001 study plan submitted by BACWA.
- Perform Pollutant Minimization Program (PMP) studies and activities
- Acute toxicity testing – Either submit a technical report identifying reasons why flow-through bioassay testing using the USEPA 4th edition test procedures is not feasible or switch from 3rd to 4th edition procedures after September, 2003.
- Chronic Toxicity Requirements – Develop a toxicity identification evaluation/toxicity reduction evaluation (TIE/TRE) work plan, perform routine monitoring, perform accelerated monitoring if a trigger value is exceeded, and implement the TIE/TRE if triggers continue to be exceeded.
- Continue participation in the Regional Monitoring Program for trace substances in San Francisco Bay.
- Participate in TMDL or site-specific objective development work for copper, mercury, selenium, 4,4-DDE and dieldrin.

The District is supportive of the concept of collaborative, regional approaches to these studies, where possible, in lieu of duplicative requirements on individual dischargers. The District is working through BACWA on collaborative efforts on a number of the above listed topics.

The proposed permit also includes the following optional studies by the District:

- Fecal coliform limit
- Copper translator
- Mercury offsets

The District may consider performance of studies to gain Regional Board approval for a switch from total to fecal coliform effluent limits, as allowed in the proposed permit. Potential chemical cost savings, the cost of the required demonstration studies and co-participation by SASM will influence the District's decision to move forward with the coliform studies. The District is collaborating with BACWA agencies on studies to derive a copper translator for the Bay north of Dumbarton Bridge. It is not likely that the District will individually pursue mercury offset studies.

Increased Self-Monitoring Requirements

The proposed permit includes the following changes in self-monitoring requirements.

- Monthly metals versus quarterly
- 3 per week influent and effluent BOD and TSS versus weekly
- Chronic toxicity testing – 2 tests over 5 year permit term

The District acknowledges and appreciates that, in most cases, Regional Board staff has attempted to keep the District's self-monitoring requirements proportional to the size and impact of the District's discharge to the Bay. However, the District requests that the following changes to the proposed monitoring requirements be made:

- Leave the required BOD and TSS monitoring frequency at once per week, as it is in the existing permit. The proposed increase in BOD and TSS influent and effluent monitoring is not warranted, on the grounds that (a) the increased monitoring is inconsistent with the requirements recently adopted in the NPDES permit for SASM, (b) the District has an excellent compliance record for BOD and TSS, (c) the District's discharge is small, is highly diluted at the discharge point in over 80 feet of water, has no effect on dissolved oxygen or TSS levels in the Bay, and (d) therefore does not warrant the extra expenditure ($42,000 for increased BOD and TSS analytical costs) over the life of the permit.

- Regarding oil and grease monitoring, the District requests that the sampling approach remain as stated in the current permit, i.e. base results on three grab samples, evenly spaced over the period of manned operation of the treatment facility, which are composited in proportion to flow occurring at the time of the sampling.

- Regarding the requirement to perform chronic toxicity screening work described in Attachment A to the Self Monitoring Report, it is requested that the District be allowed to use the screening results from another facility discharging to this

segment of the Bay (e.g. Sausalito-Marin City or CMSA) in lieu of performing a separate testing program. We do not believe that such a resource intensive program is warranted based on the magnitude, nature and location of the District's discharge.

Editorial Changes

The District requests that the following language changes be made to correct inaccuracies in the permit language:

- Finding 5 of Permit and Fact Sheet (page 3) – The language should be revised to indicate that both the District and SASM dechlorinate prior to combining flows in the common outfall. Dechlorination does not occur after flow combination.

- Self Monitoring Program, Item IV.C.6., page 14 – The language should be revised to state that the District does not currently submit its monthly data reports electronically. The District would need to expend significant time and resources to switch to the electronic submittal format, and requests that electronic reporting be retained as an option rather than as a requirement.

- Fact Sheet – The language should be revised to state that the District has not performed chronic toxicity screening studies. As noted above, the District requests that it be allowed to use the results from a similar plant to avoid performance of the screening study.

Again, the District appreciates the opportunity to provide these comments. Please contact me directly if you have any questions regarding the content of this letter.

Sincerely,

Henrik Olsgaard

Henrik Olsgaard
Acting District Manager